IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 6498 (S/S) of 2001
Old Number
Writ Petition No. 5117 (S/S) of 1998
(Leading Case)

Ramesh Kumar Tiwari, aged about 33 years, son of Sri Gangeshwar Tiwari, resident of village – Hasanpur, Post Office – Thamhanpur, District- Balia, presently functioning as Work Supervisor, Kumaon Jal Sansthan, Champawat Mandal, Nainital.

……..Petitioner

Versus

1. State of U.P. through Secretary (Nagar Vikas), Government of U.P., Vidhan Bhawan, Lucknow.
2. Director, Local Bodies, U.P. 8th floor, Indira Bhawan, Ashok Marg, Lucknow.
3. General Manager, Kumaon Jal Sansthan, District Champawat Mandal, Nainital.
4. Executive Engineer, Kumaon Jal Sasthan, District – Champawat.
5. State of Uttaranchal through Secretary, Pey Jal, Government of Uttaranachal, at Dehradun.
6. Chief General Manager, Uttaranchal Pey Jal at Dehradun.
7. General Manager (Kumaon), Uttaranchal Pey Jal at Nainital.

…….Respondents

Writ Petition No. 1204 (S/S) of 2005

Chandra Mohan Chankanyan …..Petitioner

Versus

State of U.P. and four others ….Respondents

Writ Petition No.1205 (S/S) of 2005

Santosh Kumar …..Petitioner

Versus

State of U.P. and six others ….Respondents

Writ Petition No.1206 (S/S) of 2005

Santosh Kumar Durgapal …..Petitioner
Versus
State of U.P. and five others ….Respondents

Writ Petition No.1207 (S/S) of 2005

Ajay Prakash Narain Srivastava …..Petitioner
Versus
State of U.P. and four others ….Respondents

Hon'ble M.M. Ghildiyal, J.

Heard learned counsel for the petitioners and learned standing counsel for the State of U.P., learned standing counsel for the State of Uttaranchal and Sri J.P. Joshi, learned counsel for the Kumaon Jal Sansthan.

In all the above five petitions, common question of law raises for adjudication, as such, these writ petitions are being disposed of by common judgement.

Petitioners in writ petition no. 1206 and 1207 have prayed for a writ in the nature of certiorari quashing the order dated 15.07.2000 passed by the Secretary, Nagar Vikas Anubhag by which he has rejected the reference made by the General Manager, Jal Sansthan. The General Manager, Jal Sansthan has recommended that since the nature of work being done by the work Supervisor is the same which is being done by the Junior Engineers of the Jal Sansthan and further since the petitioners are diploma holders, which is the qualification prescribed for appointment to the post of Junior Engineers as such, the

work supervisor are also entitled to the pay scale, which is being paid to the Junior Engineers in the department.

Petitioners have further prayed for a direction to respondents to extend the benefit granted in the judgement passed by Hon. Allahabad High Court in writ petition no. 2605 (SS) of 1991 (Yogesh Singh Vs. State of U.P. another). The Allahabad High Court issued a mandamus to the respondent to allow the petitioners who are employed on daily wage basis as Surveyor/Stock Surveyor in the Public Works Department to work as Junior Engineers in the establishment as they are having the same qualifications and also performing the same duties as of Junior Engineers in the Department.

Petitioners in writ petition nos. 6498 (SS) of 2004; writ petition no. 6282 of 2000 (New no. 1205 (SS) of 2005); writ petition no. 4268 of 1998 (New no. 1204 (SS) of 2005); have prayed to issue a writ in the nature of Mandamus for a direction to respondents to make payment of salary to the petitioner at par with the Junior Engineers working in the department as they are performing all the duties and responsibilities of Junior Engineers and also they are having qualifications which is prescribed for appointment to the post of Junior Engineers.

The submission of the petitioners is that they were duly selected and appointed as work Supervisor in Kumaun Jal Sansthan on daily wage basis on different dates during the year 1986 – 90. Their services were regularized as work Supervisor and they are being paid salary of Rs.715 – 1025. Since the petitioners though appointed on the post of Supervisor are discharging

duties and responsibilities of Junior Engineers and are having qualification which is prescribed for the post of Junior Engineers made a request by making representation before the Authority to grant them pay scale which is being paid to the junior Engineers (Jal) in the Jal Sansthan. Request of the petitioners was considered by the Board of Jal Sansthan and it is resolved in its 52nd meeting dated 30.03.1995 that since the work and duties of the Supervisor as well as of Junior Engineers are identical and similar in nature as such, work Supervisors are entitled to all the benefits attached to the post of Junior Engineers. The resolution passed by the board was communicated to government vide letter dated 23.07.1996.

On 15.01.2004, the General Manager, Uttaranchal Jal Sansthan, Nainital wrote a letter addressed to the Secretary Pey Jal, Uttaranchal Shashan, Dehradun, in which he has recommended the case of the petitioners and requested the Government to adjust the work Supervisor who are already working in the Department against the vacant post of Junior Engineerss as the work Supervisors and are performing the same duties, which is being performed by the Junior Engineers and further they are having necessary qualification which is prescribed for appointment to the post of Junior Engineers.

The petitioners have drawn my attention towards the letter dated 21.05.2004 filed along with Misc. Application No. 4801 of 2005. This letter was issued by the Additional Secretary, Uttaranchal Government and was addressed to the Chief General Manager, Jal

Sansthan, Dehradun. By the aforesaid letter Government has sought some information from the Chief General Manager, Uttaranchal Jal Sansthan regarding qualification and mode of appointment to the post of Supervisor, the duties and responsibilities of work Supervisor and Junior Engineers for taking decision to adjust the work Supervisor on the post of Junior Engineers in Jal Sansthan.

The General Manager vide its letter dated 16.07.2004 has furnished the information to the Secretary (Administration) that the work Supervisor are performing the same duties of Junior Engineers in the department and some of the Supervisors are getting the pay scale of Junior Engineers in pursuance to the order passed by the High Court.

Learned counsel for the petitioners has placed reliance upon the judgement passed by this court in Writ Petition 118 (SB) of 2002 (Sri Bali Ram Chaudhary Vs. State of Uttaranchal and another). The facts of the case are that petitioners were appointed as Junior Engineers in the Jal Sansthan between 1986 – 1991 and were continuing on the post till filing of the writ petition. They sought regularization on the posts. It was admitted fact between the parties that the number of vacancies of Junior Engineers in the department were increased from 137 to 208. The stand of the Government was that since the vacancies can be filled only by direct recruitment through Public Service Commission and as such, for their regularization the State will have to frame separate rules for regularization of the petitioners on the posts of Junior

Engineers. In the circumstances, this court directed the State of Uttaranchal to frame the Rules within a period of eight weeks from today and take decision for regularization of the petitioners on the post of Junior Engineers in Jal Sansthan.

The facts of the present petition are different to the case of Sri Bali Ram Chaudhary. In case of Sri Bal Ram Chaudhary petitioners were already working on the post of Junior Engineers whereas in the present petition, petitioners are working as Work Supervisor though they are qualified to be appointed as Junior Engineers as they are having necessary qualification which is prescribed for Junior Engineers. General Manager, Kumaon Jal Sansthan, has submitted that the work being performed by the Work Supervisor is the same which is being performed by the Junior Engineers and he has recommended the case to the State Government to adjust the petitioners in view of the fact that petitioners are qualified to be appointed for the post of Junior Engineers and also are doing the same job which the Junior Engineers are performing, consequently, they may be given posting on the post of Junior Engineers in the department. The petitioners have submitted that the posts are already vacant in the department and the matter is pending for consideration of the Government.

For the reasons recorded above, I think it just and proper to direct the Secretary Pey Jal, Government of Uttaranchal and Chief General Manager, Uttaranchal Pey Jal, Dehradun to take decision in the matter of petitioners considering the recommendation and the fact that the

work being performed by the work Supervisor is similar to the work being performed by the Junior Engineers and further that the petitioners are possessing the qualifications which is prescribed for appointment to the post of Junior Engineers. It is expected that the Secretary, Pey Jal, State of Uttaranchal shall take decision on the matter at the earliest preferably within a period of three months from the date of production of certified copy of this order.

With this direction the writ petition is finally disposed of. No order as costs.

(M.M. Ghildiyal, J)

November 30, 2005
SKSharma